

VIRGINIA:

IN THE CIRCUIT COURT OF FAUQUIER COUNTY

IN RE: LOCAL RULES OF COURT PRESCRIBED BY
THE CIRCUIT COURT OF FAUQUIER COUNTY,
VIRGINIA

ORDER

It appearing to the Court that Local Rules of Court consistent with the requirements of Va. Code Section 8.01-4 are necessary to promote proper order and decorum and the efficient use of this Court's courthouse facilities and its Clerk's Office and to incorporate the procedural mandates of the added Supreme Court Rules 1:18, 1:19, 1:20 & 4:15, it is ordered that the Local Rules of the Fauquier County Circuit Court, attached and made a part hereof, be the Local Rules of this Court effective March 5, 2007.

It is further ordered that a copy of this order including said rules be forwarded to Karl R. Hade, Executive Secretary of the Supreme Court of Virginia, 100 North Ninth Street, Richmond, Virginia, 23219, and a copy spread upon the civil order book of this Court. It is also further ordered that a copy of this order be forwarded to the Judges of the 20th Judicial Circuit Court of Virginia and to the President of the Fauquier County Bar Association.

These Local Rules are adopted pursuant to Va. Code Section 8.01-4 as amended effective and pursuant to Supreme Court Rule 1:15. They incorporate and are consistent with amendments to the Rules of the Supreme Court of Virginia. The Court specifically finds that these Local Rules are absolutely necessary to promote proper order and decorum and the efficient use of the Court's courthouse facilities and its Clerk's Office. They also set forth the Court's procedural elections required by the amended Rules of the Supreme Court of Virginia.

ENTER this 5th day of March 2007.

/s/ Jeffrey W. Parker
JEFFREY W. PARKER, JUDGE

FAUQUIER COUNTY CIRCUIT COURT LOCAL RULES

GENERAL PROVISIONS

Rule 1:1. Application of Rules.

These rules and any amendments hereto shall apply as of their effective date to all cases, criminal and civil, as indicated, pending or hereafter instituted in this Court, except where in pending cases their application in the opinion of the Court would not be feasible or would work injustice.

Rule 1:2. Business Hours, Days and Holidays.

(a) The Court's business hours are 8:30 a.m. to 4:30 p.m. or as directed by the trial judge.

(b) Excepting holidays as mentioned in this Rule, the regular business days of the Court for the conduct of its proceedings shall be Monday through Friday of each week.

(c) The regular holidays of the Court shall be as set forth in Va. Code Section 2.2-3300. In addition there may be special holidays by entry of Court order.

(d) Notwithstanding the other provisions of this Rule, in case of emergency or other necessity as determined by the Court, it may in its discretion set for hearing or hear any matter on any day other than a regular business day or before or after business hours.

Rule 1:3. Schedule of Regular Days.

(a) Term Days. By virtue of an order heretofore entered pursuant to Va. Code Section 17.1-517, Term Days shall be:

The fourth Monday in January, March, May, July, September, and November beginning at 9:00 a.m. when the Grand Jury shall be convened, except that other matters may be heard as directed by the Court.

If the first day, known as Term Day, of any Term as scheduled above shall fall on a legal holiday as set or defined in Va. Code Section 2.1-21, then such Term shall commence and its Term Day be on the day next following.

(b) Misdemeanor Appeal Days. Misdemeanor Appeal Days shall be:

The second Tuesday of each month beginning at 9:00 a.m.

If a Misdemeanor Appeal Day is on a legal holiday as defined in Rule 1:2 (c), then said Misdemeanor Appeal Day shall be upon the day immediately following, except as otherwise ordered by the Court.

(c) Motions Days. Motions Days shall be:

The first and third Tuesday of each month. Civil non-domestic motions shall be scheduled beginning at 9:00. Domestic Relations Motions shall be scheduled beginning at 1:30 p.m.

If a Motions Day is on a legal holiday as defined by Rule 1:2(c) then said Motions Day shall be upon the day immediately following, except as otherwise ordered by the Court.

(d) The foregoing schedule of regular days notwithstanding, any date may in cases of necessity be omitted, or changed or continued to some other convenient date by timely entry of an order for that purpose.

Rule 1:4. Calendar of Holidays and Regular Days.

Annually, before the first day of January, the Clerk of Court shall prepare a list in chronological order showing so far as foreseeable the date in the succeeding calendar year of each date mentioned in Rule 1:3(a), (b), (c), & (d).

The Clerk shall furnish a copy of such list to each circuit judge and to the district courts from which appeals lie and upon requests shall furnish a copy to any attorney or other person having need therefor.

Rule 1:5. Use of Docket Numbers.

The Clerk shall assign a docket number to each case instituted, and thereafter all pleadings, other papers, and orders and decrees shall bear said docket number. Counsel or pro se parties have the responsibility to see that all documents filed with the Court are properly numbered.

Rule 1:6. Courtroom Decorum.

(a) Silence is requested while the Court is in session. The reading of newspapers and sleeping are forbidden and the Court may not be entered on the lower level except as permitted by the Court.

(b) Dress Code – Proper attire is required of all persons appearing in Court. Attorneys are expected to dress in traditional attire. For witnesses and parties, shorts, tank tops, halter tops and sleeveless T-shirts are prohibited. Shirts are to be tucked in and midriffs and stomachs are to be covered at all times. Clothes are to be reasonably clean and not torn or ripped. T-shirts are not to contain inappropriate language or images. Cell phones are to be turned off or on vibrator mode. Headwear is permitted only for cases of recognized cultural or religious reasons.

PROVISIONS IN CRIMINAL CASES

Rule 2:1. Responsibility for Criminal Orders.

In all criminal cases the Clerk of the Court shall be primarily responsible for drafting and presenting for entry the orders in such cases, a copy of which upon entry the Clerk shall forthwith send counsel of record for the defendant unless the Court shall otherwise direct.

Rule 2:2. Misdemeanor Appeals.

In all non-jury misdemeanor cases including criminal contempt in which an appeal has been noted from the final judgment of any district court, the matters shall be

set for trial or tried consistent with the indication in the Notice of Appeal. District courts shall forthwith transmit the papers of the case to the Clerk of the Court after the expiration of 10 days from date of conviction, but not before. Cases set for trial on a Misdemeanor Appeal Day which for any reason are not tried on that day may be continued by order to a day certain.

PROVISIONS IN CIVIL CASES

Rules 3:1. Civil Motions Day Hearings.

(a) Except as provided in (b), (c), (d) and (e) of this Rule, the Civil motions, Executions, Fiduciary matters, Domestic Relations Motions, & Motions to set trials shall be heard only on the Motions days thereof.

(b) Any matter appearing on the docket of a Motions Day, the hearing of which is not completed or not reached that day, may be continued as determined by the Court to some later day.

(c) Any matter specified in (a) of this Rule to be heard only on Motions Day may be heard on any other day by leave of or by order of Court. Any matter not specified by (a) of this Rule to be heard on Motions Days may be heard thereon by leave of or by order of Court, in which event, a praecipe shall be filed as required by Rule 3:2.

(d) Except by leave of the presiding judge, no matter shall exceed 30 minutes total, allotting equal time to each side.

(e) Except by leave of Court no matter shall be placed on a Motions Day without timely filing of a praecipe as required by Rule 3:2. Unless previously filed, the subject motion shall be filed with the praecipe and served as required by the Rules of Court.

(f) Two and a half hours will be allotted by the Court for civil motions (not including Docket Call) in the morning with two and a half hours for domestic matters (not including Docket Call) in the afternoon. The Court reserves the discretion to increase or decrease this time allotment based upon its estimate of the length of the docket.

(g) Cases will be scheduled upon the Court's docket until the available time is fully allocated. Counsel may check the [Circuit Court Case Information for Fauquier County](#) on the Supreme Court's web site or from the Fauquier County Clerk's Office Web Page to see if the matter has been docketed. Once a date is fully scheduled, motions must be placed upon a subsequent motions day. Docket call shall begin prior to calling the motions on the morning and afternoon dockets. Civil cases are to be set in the morning. Domestic Relations cases are to be set in the afternoon.

Rule 3:2. Praecipe and Docket.

[Praecipe Form](#)

(a) In order to place matters required by local Rule 3:1 to be set on a Motions Docket, counsel or a party not represented by counsel shall file in the clerk's office a praecipe motion duly signed and in the form of the form praecipe provided for in Rule 1:15(b) and the Appendix thereto of the Supreme Court of Virginia or Form 3:2 attached

as Exhibit A hereto no less than eight days by 12:00 noon prior to the Motions Day to which it is returnable. The certificate of service shall contain the names and addresses of all persons entitled to receive the praecipe. Counsel and an unrepresented party shall appear in person to set a trial date and to consider other matters set forth in Supreme Court Rule 1:19 or Supreme Court Rule 4:13. See Supreme Court Rule 1:20(c).

(b) The Clerk of Court shall maintain a docket sheet for each motions day and shall list thereon each case for which a proper praecipe under (a) of this Rule has been timely filed, noting as to each the short style of the case, the names of counsel including parties not in default and not represented by counsel, the purpose of the hearing, the hour at which it is scheduled to commence and the estimate of time required for hearing. The order in which matters are heard on the Motions Day docket shall be in the discretion of the Court.

Rule 3:3. Pretrial Conference.

(a) A pretrial conference may be set by the Court at which all matters listed under Supreme Court Rules 1:19 & 4:13 may be considered prior to and as a prerequisite to hearing any matter for trial or hearing on its merits.

(b) Failure to comply with dates established by pretrial or pretrial scheduling order could result in the delay of hearings and trials including the loss of hearing or trial dates.

(c) Parties by counsel or pro se are to appear in person unless leave of court is received in advance.

Rule 3:4. Setting for Trial.

(a) Trials on issues of fact raised by plea may be, in the discretion of the Court, heard separately or in conjunction with trial on the merits. Trials will be held when:

1. The parties are at issue on the matters to be tried and the case is matured.
2. Pretrial conferences, if required, in accordance with Local Rule 3:3 have been had.
3. All discovery procedures relating to the issues to be tried have been completed or a date by which all discovery procedures shall have been completed has been determined by order.

(b) Requests for trial on the merits shall be by use of an acceptable Praecipe.

Rule 3:5. Preparation and Presentation of Orders & Decrees.

(a) The party substantially prevailing on a particular matter in a case shall be primarily responsible for drafting and presenting for entry of the order, judgment or decree upon that matter within the time limits set forth below. In other instances the Court shall determine responsibility. Orders and decrees may be mailed to pro se litigants for endorsement. If not endorsed and returned to the Court within 10 days, on certification of this mailing and that 10 days have passed, Orders may be presented by counsel for entry without endorsement pursuant to Rules of Court 1:13.

(b) Orders should be presented to the Court for entry no later than 21 days from the date of the Court's ruling. In the event that the parties cannot agree as to the terms of the Order within this period, the Order shall be noticed for entry by the prevailing party on the next available Motions Day.

Rule 3:6. Domestic Relations Matters.

(a) All contested proceedings for divorce, annulment, separate maintenance, child custody, support and similar matters and all such matters pendente lite, contested or not, shall be heard ore tenus unless otherwise ordered by the Court. Any such proceeding, other than those pendente lite, when uncontested shall be heard on deposition unless otherwise ordered by the Court.

(b) A statistical report as required by Va. Code Section 32.1-268 shall be furnished to the Clerk as a prerequisite to the entry of a decree of divorce a vinculo matrimonii or of annulment.

Rule 3:7 Determination of Fact Issues in Equity.

The Court may order a reference articulating specific issues to a Commissioner in Chancery for hearing and report thereon consistent with Rule 3:23 of the Rules of the Supreme Court of Virginia. A reference should not be presented until all discovery is substantially concluded.

Rule 3:8 Certain Appeals by Juveniles.

(a) In all juvenile cases in which an appeal has been noted from the final judgment of a Juvenile and Domestic Relations District Court finding a juvenile subject to the provisions of the juvenile law for an offense which if committed by an adult would be a crime, the procedures provided by Rule 2:2 shall apply mutatis mutandis, unless the Court shall by entry of an order provide some other procedure.

(b) In such cases, the provisions of Rule 1:6 shall apply mutatis mutandis to the allowance of fees and expenses of Court-appointed counsel.

Rule 3:9. Other Civil Cases Appealed or Removed from the General District Court and the Juvenile and Domestic Relations District Court.

Upon an appeal to the Circuit Court of any civil matter, the parties in the lower court, even if the prevailing party, shall file pleadings as follows: The Plaintiff or Complainant, shall file with the Court and copy to opposing side, a Bill of Particulars, setting forth the true nature of the claim or complaint within 21 days from the party's first appearance in Circuit Court. The Defendant or Respondent shall file the grounds of defense with the Court and copy to the opposing side within 21 days of receipt of the Bill of Particulars. Either party may incorporate in writing by reference within the time period set, pleadings filed in the lower courts.

Failure to comply with these requirements may result in Summary Judgment being awarded to the adverse party.

Rule 3:10. Court Reporters.

The party or parties desiring the services of a Court reporter shall be responsible for obtaining and compensating the reporter. A court reporter may be required by the presiding judge.

Rule 3:12. Removal of Cases from Docket.

If the time required to dispose of any matter before the Court exceeds the time limits set in these rules, by any prior order of the Court, or for other good cause, the Court reserves the authority to adjust its schedule to meet the requirements of the Court, Clerk's staff, counsel or litigants.

Counsel in cases for trial are requested to advise the Court no later than 30 days before the date set for trial, that the case will exceed the time allotted for trial. Failure to do so could result in a reassigned trial date.

Continuances on motions can be granted only for good cause shown.

Rule 3:13. Motions for Reconsideration and Motions for Emergency Hearings

Motions for Reconsideration are to be in writing. Counsel is cautioned that the filing of a motion does not stay the Court's jurisdiction under Rule 1:1 of the Supreme Court of Virginia. It is the duty of counsel to preserve the Court's jurisdiction. The Court in its discretion reserves the right to summarily deny the motion without docketing or hearing oral argument.

Motions for Emergency Hearings are to be in writing. The Court will determine whether the matter is an emergency and docket it accordingly.